THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.15813 of 2006

DATE: 31.07.2006

Between:

K. Venkateswara Rao

… PETITIONER

AND

APSRTC, rep., by its VC & MD,
Musheerabad, Hyderabad & another.

… RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.15813 of 2006

ORDER:-

This writ petition is filed questioning the action of the 2nd respondent, namely the Depot Manager, Jaggaiahpet, APSRTC, Krishna District in issuing show cause notice, dated 05.07.2007, to the petitioner to show cause within seven days from then, as to why he should not be removed from service besides treating the suspension period as "not on duty", and consequently to set aside the same and grant all consequential benefits.

The case of the petitioner is that he was directed for periodical medical examination before the Medical Officer by the 2nd respondent by his letter dated 25.01.2006. Accordingly, he attended before the Medical Officer for examination and the Medical Officer, without conducting any test, endorsed on the backside of the letter that the petitioner has taken Alcohol while coming for medical examination and therefore he could not conduct examination. Basing on the said endorsement, the 2nd respondent appointed a preliminary enquiry officer to conduct enquiry. The Enquiry Officer conducted enquiry and submitted his report on 30.01.2006. Basing on the enquiry report, the 2nd respondent kept the petitioner under suspension and issued

charge sheet dated 01.02.2006.

Aggrieved by the said charge sheet, the petitioner submitted his explanation on 06.02.2006. The 2nd respondent without giving any reply, appointed another enquiry officer to conduct enquiry into the alleged charge. The enquiry officer conducted enquiry and submitted his report dated 17.05.2006 stating that the charge was proved, against which the petitioner raised objections before the 2nd respondent by letter dated 02.06.2006. The 2nd respondent without giving any finding on the objections, issued the impugned show cause notice dated 05.07.2006 for removal from service. Aggrieved thereby, the petitioner filed the present writ petition.

Learned counsel for the petitioner contends that the enquiry officer appointed to probe into the charge had conducted the enquiry without properly considering the material placed before him and submitted his report dated 17-5-2006 holding that the charge is proved. The learned counsel further submitted that the 2nd respondent without considering the objections raised by the petitioner to the enquiry report dated 17-5-2006 has issued the impugned show cause notice dated 05-07-2006 for removal from service. The learned counsel therefore prayed that the impugned show cause notice dated 5-7-2006 be set aside.

Heard the learned counsel for the petitioner as also the learned Standing Counsel for the respondent – Corporation and perused the impugned show cause notice and the material placed on record.

The impugned show cause notice would disclose that the enquiry report was sent to the petitioner seeking objections and the petitioner submitted his objections to the enquiry report.

Not convinced by the objections raised by the petitioner the 2nd respondent agreed with the findings of the enquiry officer and issued the impugned show cause notice for removal from service. The petitioner can raise all the objections in the reply to the show cause notice. Be that as it may, as it is submitted by the learned counsel for the petitioner and admitted to by the learned Standing counsel for the corporation that the time granted to reply to the show cause notice is expired, I deem it appropriate to dispose of the writ petition with the direction as under:

The petitioner is directed to submit his explanation to the show cause notice dated 5-7-2006 issued by the 2nd respondent, namely the Depot Manager, Jaggaiahpet Depot, within ten days from the date of receipt of a copy of this order, and on such submission of the explanation, the 2nd respondent to take the same into consideration before passing the final orders.

With the direction as above, the writ petition is disposed of. No costs.

N.V. RAMANA, J

Date: 31.07.2006
ES/GRK

for removal levelled against the petitioner is provedhas not followed the procedure or examined the doctor2nd respondent without giving

any considering the explanation submitted to the charge sheet dated 01-02-2006 appointed the enquiry officer to conduct enquiry into the alleged charge, who without following any procedure submitted his enquiry report dated 17-5-2006 holding that the charge is proved. The learned

enquiry officer has not properly considered exthe material placed before him explanation submitted by the petitioner and since there is no material before the

2nd respondent, the impugned show cause notice was served to the petitioner to submit the details and his defense once again. He further contends that in spite of placing the material before the respondents, the same was not considered and the 2nd respondent – Depot Manager, passed the impugned show cause notice, dated 05.07.2006 and therefore, prays this Court to set aside the impugned show cause notice.

The 2nd respondent by letter dated 25-1-2006 directed the

petitioner for periodical medical examination before the Medical Officer, Vijayawada. The petitioner accordingly attended before the Medical Officer at about 15.00 hrs but the Medical officer without conducting any test written on the back side of the letter dated 25-1-2006 that the petitioner has taken allchol while coming for meeical examination and that is why he was not examined. Based on the endorsement of the 2nd respondent on the letter, a preliminary enquiry was conducted and the report dated 30-1-2006 was submitted in which no adverse finding was given agasisnt the petitioner. The 2nd respondent without appreciation of the enquiry report kept the petitioner under suspension and issued a charge sheet dated 01-02-2006 with one charge. Denying the allegation, the petitioner submitted his explanation on 06-02-2006, but the 2nd respondent without giving any reply has appointed an enquiry officer to conduct enquiry into the alleged charge, who without following any procedure or examining the doctor, conducted enquiry and submitted his report dated 17-5-2006 holding that the charge was proved.

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